

**CONGRESSMAN SHERWOOD BOEHLERT (R-NY)**  
**TESTIMONY FOR RULES COMMITTEE ON ESA**  
**September 28, 2005**

Mr. Chairman:

I appreciate the opportunity to testify before you today. My request is simple and won't surprise anybody – I urge you to make in order the Miller-Boehlert substitute to H.R. 3824 with sufficient time to have a thorough debate.

H.R. 3824 is the most significant proposed rewrite of an environmental statute in 15 years. The bill does not reflect any broad or open negotiations, and the legislative process in developing it has been telescoped, to put it mildly. Mark-up in the Resources Committee can hardly be assumed to reflect the will of the House because that Committee, by its nature, has never attracted a representative sample of Members.

The initial version of this complex bill only became available last Monday, and the current version of the bill was unavailable until this Monday afternoon. Groups and Members on all sides of the issue, not to mention analysts at the Congressional Research Service and the Congressional Budget Office, have been scurrying to try to figure out what the bill actually does before it's too late.

My only point in making these points, many of which were made in a letter from 23 moderate Republicans last week, is to say that the floor proceedings must provide Members with a real opportunity to consider real and complete alternatives to this bill. There has not been adequate time or an appropriate forum until now to have a full and open debate on real alternatives to this important bill.

Let me add that this bill is not only significant because of its environmental consequences, but also because of its budgetary consequences. Section 13 of the bill creates a new entitlement with new mandatory spending. That's not just my conclusion; it's all laid out in the report from the Congressional Budget Office (CBO). And the entitlement is particularly open-ended because the bill prohibits many sensible steps that might be taken to protect the taxpayer. I think many Members are just learning about this significant and unprecedented provision. Debate on the substitute, which omits Section 13, will allow the House to discuss this stunning provision of the bill. In reality, Section 13 ought to be subject to budgetary points of order.

The substitute is the perfect vehicle to enable debate to occur on the key provisions of H.R. 3824 because we took as much language from the bill as possible; most of our text is identical to that of the bill. For example, with the exception of the new entitlement, we retained all the aspects of H.R. 3824 that create new programs to provide aid to property owners.

The substitute diverges from the underlying bill only in a handful of critical provisions – and, again with the exception of the new entitlement, we amend those provisions rather than strike them in their entirety. Often those amendments make the actual language of the bill match the sponsors' description of the bill.

So in closing Mr. Chairman, let me just say that I don't see how the House could have a complete and cogent debate on the key features of H.R. 3824 unless the bipartisan substitute is made in order. Thank you.